



JUVENILE CRIMINAL ARREST PROCEDURE

FC No.: 509

Date: 05-21-04

If a provision of a regulation, departmental directive, rule, or procedure conflicts with a provision of the contract, the contract prevails except where the contract provision conflicts with State law or the Police Collective Bargaining Law. (FOP Contract, Article 61)

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I. Policy

All citizens have basic rights that are set forth in common law, statutory law, and the Constitution. Among these rights is the right of persons suspected of criminal acts to be protected from abuse of police power. The policy of the department is to exercise the power of arrest in conformity with all applicable laws. For information concerning adults, refer to FC 510, "Adult Criminal Arrest Procedure." (CALEA 1.2.1, 1.2.5)

II. Discretion

- A. Officers are vested with a broad range of discretion when deciding whether or not to charge a juvenile with a crime. This directive is not intended to deprive any officer of that discretion when deciding whether or not to charge a juvenile provided it is exercised in accordance with departmental rules and

regulations and in furtherance of the police mission. While the discretion to charge a juvenile rests with the officer, the manner in which these charges are placed is determined by departmental policy. (CALEA 1.2.7)

- B. The proper exercise of discretion does not relieve the investigating officer of the responsibility to conduct a thorough preliminary investigation of the event. (CALEA 42.1.4)

III. General Information

A. Laws of Arrest

The laws of arrest apply the same for adults and juveniles. If the laws of arrest prevent an officer from arresting an adult, then the laws of arrest also prevent an officer from arresting a juvenile for the same offense.

B. Parent/Guardian Notification

When an officer charges a juvenile with a crime, whether by arrest or by exception, the officer must notify the juvenile's parent/guardian of the charges. In the narrative of the report, the officer must state that the parent/guardian was notified of what charge(s) was being placed against the juvenile and the date and time the notification was made. (CALEA 44.2.2.e)

C. Physical Arrests

When a physical arrest is made, officers will refer to FC 513, "Processing Arrested Persons," for procedures.

D. FCD Responsibility

Family **Crimes** Division (**FCD**) does not conduct follow-up investigations of juvenile arrests or cases closed by exception. Their responsibility is solely to screen the cases to determine the proper referral of the case. The referral could include sending the juvenile to a diversionary program or sending the case to the State Department of Juvenile **Services (DJS)**.

E. Citations

Juveniles can only be issued citations for civil violations of the alcohol and tobacco laws. Refer to the Citation Manual for more information.

F. Arrests on School Property

Whenever a juvenile is arrested on school property, officers will refer to FC 512, "Arrest, Questioning, and Search of Students on School Premises," for additional direction.

IV. **Juvenile Warrants**

A. There is currently no warrant application process for juveniles that can be utilized by an officer.

B. Juvenile warrants can only be issued by juvenile court judges.

C. Juvenile warrants can be served at any time, day or night. If the charge is of a minor nature, service will be made at a reasonable time of day, normally between 0700 and 2200 hours.

D. Any officer holding a juvenile warrant or having knowledge of one has lawful authority to take the juvenile named into custody.

V. **Closing Cases by Exception and Referring to *FCD* for Disposition**

A. Closing cases by exception and referring them to *FCD* was instituted as a way of presenting juveniles before the juvenile justice system when the laws of arrest prevent the officer from making a physical arrest. Only those misdemeanors that do not fall under the guidelines of ***Criminal Procedure Articles 2-202 or 2-203***, can be closed and referred to *FCD*. (CALEA 44.2.1.c)

B. A physical arrest must be made on all felonies and misdemeanors that fall under the guidelines of ***Criminal Procedure Articles 2-202 or 2-203***, if the officer determines that charges are to be placed.

C. Exceptions

A felony or misdemeanor can be closed by exception when:

1. The juvenile cannot be located, or

2. The juvenile lives outside of Maryland and the parent/guardian refuses to bring the juvenile to Montgomery County.

Officers should include in the report all efforts on locating the juvenile and/or the parent's/guardian's refusal to bring the juvenile to Montgomery County.

D. Event Report

When closing a case by exception and referring to *FCD* for disposition, the following must be included in the event report:

1. At the beginning of the narrative, write the statement: "This event is closed exceptionally and referred to *FCD* for disposition."
2. Detailed suspect information to include DOB.
3. Detailed summary of probable cause.
4. Parent/guardian information to include first and last name(s), address, zip code, and home and work telephone numbers. *FCD* and *DJS* will not accept reports without this information.
5. Statement that the parent/guardian was notified of what charge(s) was being placed against the juvenile and the date and time the notification was made.
6. Name of the officer making notification.

E. Required Documentation

Forward copies of the following documents to *FCD* within 24 hours. Officers may fax these documents to (240) 773-5405.

1. Event report
2. MCP 107
3. MCP 107A, if applicable
4. Copies of all MCP 50s/written statements (suspect and witness) relating to the case.

F. Multiple Suspects

If a case has multiple suspects but only one has been identified, the case cannot be "closed exceptionally." Officers should place the following statement at the beginning of the narrative: "This event remains open, however it is referred to *FCD* for disposition on (state the known juvenile offender's name)." This will enable *FCD* to begin the screening process for the known juvenile.

G. Officers will not fill out an arrest report when closing a case by exception and referring it to *FCD* for disposition.

VI. Warrantless Arrest on Accusation/Citizen Arrest

A. Legal Authority

1. Felony - In Maryland, a private citizen has authority to arrest without a warrant when a felony is being committed in the citizen's presence or when a felony has in fact been committed, whether or not in the citizen's presence, and the citizen has probable cause to believe that the person arrested has committed it.
2. Misdemeanor - In Maryland, a private citizen has authority to arrest without a warrant when a misdemeanor that amounts to a breach of the peace is being committed in the presence or view of the citizen. There is a narrow exception to this in the common law. A citizen has the right to detain a person believed to have taken the citizen's property. This must be done to prevent theft or recapture property and not as a punishment. It is false imprisonment if the person does not have the property.

B. Warrantless Citizens' (Non-Police) Felony Arrests

Responding officers will interview the complainant and determine if there is probable cause to believe a felony was committed and the juvenile committed it.

1. If probable cause to arrest the juvenile does NOT exist, officers will:
 - a. NOT ARREST THE JUVENILE.
 - b. Inform the complainant that the arrest does not meet legal requirements.
 - c. Complete the appropriate police report.
2. If probable cause to arrest the juvenile DOES exist, officers will:
 - a. Obtain a written, signed statement from the complainant.
 - b. Arrest, transport, and process the juvenile according to FC 513, "Processing Arrested Persons."
 - c. Forward copies of the event report, arrest report, MCP 50, MCP 107, and 107A and any written defendant/witness statements to **FCD** within 24 hours.

C. Warrantless Citizens' (Non-Police) Misdemeanor Arrests

1. Responding officers will interview the complainant and determine if there is probable cause to believe a misdemeanor

was committed and the juvenile committed it.

2. If there is probable cause to believe that the juvenile committed a misdemeanor and all of the guidelines of ***Criminal Procedure Articles 2-202 and 2-203***, have been met, officers will arrest the juvenile and:
 - a. Obtain a written, signed statement from the complainant.
 - b. Transport and process the juvenile according to FC 513.
3. If there is probable cause to believe that the juvenile committed a misdemeanor but all of the guidelines of ***Criminal Procedure Articles 2-202 and 2-203***, have NOT been met:
 - a. DO NOT ARREST THE SUSPECT.
 - b. Explain to the complainant that officers may not arrest the juvenile in this situation.
 - c. Close the case by exception and refer it to **FCD** for disposition.
 - d. Complete the necessary reports, including all of the necessary information (refer to section V.D), and fax or forward all reports to **FCD** within 24 hours.
4. It is important to note that for shoplifting, a physical arrest will be made on all felonies and on misdemeanors that meet the guidelines of ***Criminal Procedure Articles 2-202 and 2-203***. This would include a juvenile who resides outside of Maryland, whose identity is in question, or who is wanted.

VII. Warrantless Arrest by Police Officers or Commissioned Special Police Officers

- A. The legislatures and courts have historically maintained a delicate balance between the interest of the community in protecting itself and the right of the citizen to be free from unjustified arrest. In doing so, the legislatures have strictly limited the authority to arrest without a warrant. The term "arrest" in this order, when used with regard to juveniles, means "taking into custody." (CALEA 44.2.2.c)
- B. Juveniles may be taken into custody under the authority set forth in the Courts and Judicial Proceedings Article, Section 3-814, "Taking a Child into Custody." These guidelines state that an officer or commissioned special police

officer (SPO) may take a juvenile into custody: (CALEA 1.2.1)

1. Pursuant to an order of the court (juvenile warrant).
2. Pursuant to the laws of arrest (***Criminal Procedure Articles 2-202 or 2-203***).
3. By a law enforcement officer or other person authorized by the court if that person has reasonable grounds to believe that the child is in immediate danger from the child's surroundings and that the child's removal is necessary for the child's protection. (CALEA 44.2.2.b)
4. By a law enforcement officer or other person authorized by the court if that person has reasonable grounds to believe that the child has run away from the child's parents, guardian, or legal custodian.

- C. In accordance with Maryland case law, an officer or SPO may arrest a juvenile without a warrant under the authority of the Maryland Police Team Rule (when an officer is advised via official police communications that there is lawful authority to make an arrest). (CALEA 1.2.1)
- D. Officers must follow the procedures listed below when responding to warrantless arrests for felonies or misdemeanors made by an SPO.
1. Verify that the complainant is a commissioned SPO.
 2. Obtain a signed statement of probable cause for the arrest prepared by the SPO.
 3. Transport and process the juvenile, and complete the necessary reports according to FC 513.

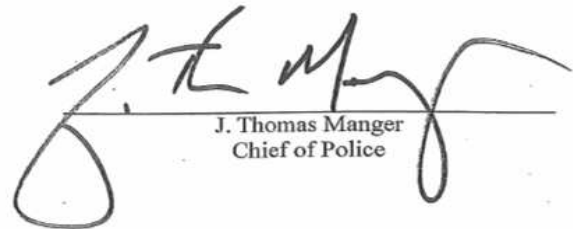
VIII. Affirmation Form

When an officer makes an arrest of a juvenile and the juvenile is detained overnight, a signed copy of affirmation (see Appendix A) will be included with the MCP 187, "Juvenile Detention Form," and processed according to FC 513.

IX. Proponent Unit: Family ***Crimes*** Division

X. Cancellation

This directive cancels Function Code 509, effective date 09-05-00.



J. Thomas Manger
Chief of Police

Juvenile Arrests & Citations Checklist

Arrests or Referrals to FCD for Disposition

Within 24 hours of an arrest or the referral of a case to FCD for disposition, officers must fax, **and** send via interoffice mail, COPIES of the following documents to FCD, attention **Case Screening Unit**.

- Event Report
- Supplements
- MCP 107
- MCP 107A
- Arrest Report
- Statements (victims, witnesses, defendants, co-defendants)
- MCP 50
- MPC 187, "Juvenile Detention Notice" (if juvenile is detained overnight)
- Affidavit (FC 509 - Appendix) (if juvenile is to be detained overnight via **DJS**)
- Officer's Notes
- (Do not send photos – they are to be kept in the officer's case file)

FCD FAX: 240-773-5405

Juvenile Detained by **DJS**

When a juvenile is detained by **DJS**, in addition to sending the above items to FCD, the officer must provide COPIES of the following documents to the **DJS** worker handling the case. If it is after business hours, the officer will fax COPIES of the following documents to **DJS** before the end of the tour of duty. (Note: The **DJS** drop box on the wall of 27 Courthouse Square is no longer in use.)

- Event Report
- Arrest Report
- MCP 187, "Juvenile Detention Notice"
- Affidavit (FC 509 - Appendix)

DJS FAX: 301-279-1193

Citations

Citations may be issued to juveniles only for civil violations of the alcohol and tobacco laws. Within 24 hours of the issuance of a citation, the officer will send the following documents via interoffice mail to the FCD, attention **Case Screening Unit**.

- Citation - white and green copies
- Event Report - (if required) (photocopy)
- MCP 107 - Investigative and District copies